

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA :
: **ORDER**
:
V. : Criminal No. 05-495 (DRD)
:
:
JOSE DIAZ :
:

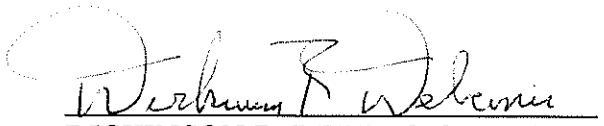
AGREED ORDER REDUCING SENTENCE

The Court considers this case pursuant to its authority under 18 U.S.C. § 3582(c)(2) and Federal Rule of Criminal Procedure 43(b)(4). The U.S. Sentencing Commission has reduced guideline offense levels for cocaine base cases, and has made the reductions retroactive to previously-sentenced defendants. The parties agree that a sentencing reduction is appropriate in this case. The Court concurs, and hereby ORDERS as follows:

- (1) The guideline offense level in this case is reduced from 34 to **32**;
- (2) As at the original sentencing, Mr. Diaz is entitled to a three-level reduction for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a) and (b), making the final guidelines offense level **29**;
- (3) In conjunction with a criminal history category of II, which is consistent with this Court's downward departure from criminal history category III, pursuant to U.S.S.G. §4A1.3, the applicable guidelines range is 97 to 121 months;
- (4) The applicable statutory mandatory minimum term of imprisonment of 10 years, see 21 U.S.C. § 841(b)(1)(A), renders the guidelines range 120 to 121 months;
- (5) Defendant's sentence is reduced from 121 months to **120** months;
- (6) All other terms and provisions of the original judgment remain in effect.

A copy of this agreed order shall be transmitted to the Bureau of Prisons immediately.

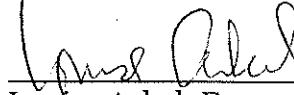
SO ORDERED on this the 19th day of November, 2009.


DICKINSON R. DEBEVOISE, U.S.D.J.

AGREED:



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